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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/010,189 | 12/06/2001 | Paul B. Bowlin | 0838CG.04455 | 7312 |

7590 07/08/2003
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Houston, TX 77208-1389

EXAMINER

KASTLER, SCOTT R

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1742

2

DATE MAILED: 07/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS 2

Office Action Summary

Application No.

10/010,189

Applicant(s)

BOWLIN ET AL.

Examiner

Scott Kastler

Art Unit

1742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>1</u> . | 6) <input type="checkbox"/> Other: |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 10, 11 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindkvist in view of Blackmon et al. Lindkvist teaches an exhaust assembly for torches (D) including a support platform in the form of a table (A) an exhaust shroud (17) surrounding the torch (D) collecting exhaust from the torch, where the shroud includes intakes and output ports (see figures 5-7 for example) with flexible exhaust hoses connecting the shrouds with a vacuum source, in the embodiments of the figures for example, thereby showing all aspects of the above claims except the provision that the exhaust apparatus be arranged on a gantry movable with the torch along the support table (Lindkvist merely shows the torch and exhaust apparatus supported on bar C without stating how the bar is arranged or supported itself). Blackmon et al teaches, in the embodiment of figure 1 for example, that it was known in the torch art at the time the invention was made to arrange torches and their attendant accessories on a gantry system (30) in order to provide for greater maneuverability and flexibility in the cutting apparatus (see col. 2 lines 20-30 for example). Because improved flexibility would also be desirable in the system described by Lindkvist, motivation to include a gantry system, as described by Blackmon et al, for carrying the torch and attached exhaust apparatus of Lindkvist, would have been a modification obvious to one of ordinary skill in the art at the time the invention was made.

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Claims 3, 4, 6-9 and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindkvist in view of Blackmon et al. As applied to claim 1 above, Lindkvist in view of Blackmon et al show all aspects of the above claims except the use of an exhaust shroud of a crescent shape, as opposed to the shroud shape described in figures 5-7 of Lindkvist, although the shroud shapes of Lindkvist is stated to operate with substantially the same effects as that of the instantly claimed shapes. The subject matter as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made because it has been well settled that where no new or unexpected results are shown to arise therefrom, motivation to alter the shape of a component shown by the applied prior art (the exhaust shroud 17, of Lindkvist) would have been a modification obvious to one of ordinary skill in the art at the time the invention was made. See *In re Dailey*, 149 USPQ 47. In the instant case, since no new or unexpected results have yet been shown to arise from the use of a crescent shaped exhaust shroud, as opposed to the shroud shapes disclosed by Lindkvist, motivation to alter the shroud shapes described by Lindkvist to any desired shape, including the instantly recited crescent shape, would have been a modification obvious to one of ordinary skill in the art at the time the invention was made.

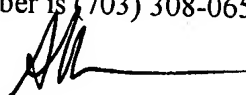
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Each of Taylor, Diedrich et al and French'842A are also cited as further examples of prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Kastler whose telephone number is (703) 308-2506. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (703) 308-3050. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.



Scott Kastler
Primary Examiner
Art Unit 1742

sk
July 3, 2003